

**NOTE: This Policy was submitted as Item 9 to the Executive Meeting on 10 October 2008.**

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**West Berkshire Council**

**Gypsy & Traveller Policy**

**DRAFT**

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# SECTION 1

# 1 INTRODUCTION

- 1.1 West Berkshire, as with other local authorities, has a range of statutory responsibilities concerning Gypsies & Travellers, which are delivered through the breadth of the services that it provides to the community. These broadly include accommodation, health, welfare and education that are the rights of all individuals, including Gypsies & Travellers. Gypsies & Irish Travellers are ethnic minorities whose rights are protected by the Race Relations Act 1976, the Race Relations (Amendment) Act 2000 and the Human Rights Act 1998. Local authorities are required to give proper consideration to race and equality implications in their policies and actions.
- 1.2 New and revised government guidance and legislation, which will be referred to in more detail later in this Policy document, has been introduced to strengthen local authority powers in managing inappropriate unauthorised encampments and to provide for more authorised pitches.
- 1.3 A key element of this legislation is the requirement upon local authorities in the Housing Act 2004 to assess the accommodation needs of Gypsies & Travellers alongside those of the settled community. West Berkshire Council has participated in a cross-authority research study, led by the Association of Councils in the Thames Valley (ACTVaR), to assess the accommodation needs of Gypsies & Travellers in the Thames Valley region. The shared research with the other 17 local authorities will help to develop a better understanding of the needs of Gypsies & Travellers across the region and create opportunities for closer working between local authorities. The locally identified needs will be incorporated into the Regional Spatial Strategy (the South East Plan) and each local authority will then play its part in meeting the need through the planning system. The findings of this research are detailed later in the Policy document in Appendix 9.3.
- 1.4 Currently there are an estimated 15,000 Gypsies & Travellers caravans in England. Three quarters of these are on authorised sites, either private or council owned. This leaves a quarter, almost 4,000, without permanent sites. In 1994 the duty on local authorities to provide sites was removed and since then there has been an under provision and a growth in the number of unauthorised sites, with the consequences felt by local communities. Nationally the largest increase in sites has been in unauthorised developments, where land is acquired and lived on without the necessary planning permission. The Government is to respond to this by strengthening the planning system and the powers of local authorities.
- 1.5 This Policy document sets out the position of West Berkshire in response to the changing circumstances and responsibilities for local authorities, in relation to Gypsies & Travellers. This includes the introduction of practical policies to address the fundamental issues and recognition of the need to engage with all communities, groups and organisations involved with Gypsies & Travellers.

## 2 CONTEXT FOR THE POLICY

2.1 This Policy was drafted in response to the recent changes in government guidance and legislation on the responsibilities of local government for Gypsies & Travellers.

2.2 The Caravan Sites Act 1968, required local authorities to provide sites for Gypsies & Travellers. In 1994 many of the provisions in the Act were repealed in the Criminal Justice and Public Order Act (CJPO). Sections 77 and 78 of the CJPO Act gave local authorities new powers to deal with unauthorised encampments. These and other powers, including Direction Orders, the Civil Courts and Bylaws on common land and public open space are part of the Council's procedures for managing unauthorised encampments. The legislation was accompanied by Department of the Environment Circular (18/94), which restated previous advice advocating tolerance in removal of encampments and highlighted the wider obligations local authorities might have to travellers under other legislation. Local authorities were advised to liaise with other authorities on availability of health, education and welfare provision.

2.3 In October 1998 the Government introduced a Good Practice Guide on Managing Unauthorised Encampments. This was revised and re-issued in February 2004. It identifies a number of principles to be followed in managing unauthorised encampments:

2.4 *Although unauthorised camping is unlawful, it is likely to continue while there are insufficient spaces to accommodate Gypsies & Travellers on authorised sites. While more places are being provided, it is vital that local authorities, with the Police and other partners, pro-actively manage unauthorised encampments to minimise the disruption they can cause.*

- *To enforce the same standards of behaviour by unauthorised campers as are expected of the settled community*
- *To respond rapidly to any deterioration of behaviour and growing disruption from an encampment*
- *To facilitate access to services for Gypsies & Travellers on encampments.*
- *To keep all parties informed of decisions and actions*

2.5 The guidance also recommends the development of a co-ordinated strategy by all involved authorities.

2.6 The Human Rights Act 1998 came into effect in October 2000. The Act makes it unlawful for a public authority to act in breach of Convention Rights unless it could not have acted differently under primary legislation. Certain Articles of the convention are important in relation to Gypsies & Travellers, such as:

- *Every natural person or legal person is entitled to the peaceful enjoyment of his possessions (Article 1, First Protocol)*

- *Everyone has the right to respect for his private and family life, his home and his correspondence (Article 8)*
- *No person shall be denied the right to education (Article 2, First Protocol)*
- *Enjoyment of rights and freedoms within the convention are secured without discrimination on the grounds of personal circumstance (Article 14)*

## 2.7 **Diversity and Human Rights Issues**

2.7.1 The Race Relations Act 1976, and Race Relations (Amendment) Act 2000 place a duty on public authorities including local authorities, Parish Councils and the Police to actively promote race equality and good race relations. Gypsies were recognised as an ethnic minority in 1989. The standards of behaviour expected from the travelling community are the same as those expected from the settled community, but it is important to avoid the possibility of discrimination or a disproportionate response to the issues raised by unauthorised encampments.

## 2.8 **Equalities**

2.8.1 In 2004 the Countryside Service carried out an Equalities Impact Assessment of its activities, as part of the Council's wider responsibilities, and a key focus of this assessment was the management of Gypsies & Travellers.

2.8.2 Some of the findings were based on a questionnaire completed on behalf of the Commission for Racial Equality (CRE). This questionnaire was part of a project being undertaken by the CRE to look at the extent to which district, unitary and county councils in England and Wales were meeting their statutory duties towards Gypsies and Irish Travellers under existing legislation.

2.8.3 The impact assessment recommended that the Council's '*Policy in Relation to Unauthorised Gypsy and Traveller Encampments*,' should be reviewed in light of recent government guidance.

## 2.9 **Policy Objectives**

2.9.1 The Council's intention is to ensure that this Policy document is consistent with Government guidance and legislation for local authorities.

2.9.2 The Council seeks to create an environment across the district in which the rights and responsibilities of residential communities and those of Gypsies & Travellers are respected. It will seek to co-ordinate the efforts of its services and those created through partnerships with external groups and organisations involved with travellers, to develop safe, strong and enduring communities.

- To recognise the rights and equality needs of Gypsies & Travellers together with those of the resident communities
- To balance the rights and needs of resident communities with those of Gypsies & Travellers

- To ensure that Gypsies & Travellers have equal access to Council Services
- To respond to unauthorised encampments in an efficient and effective way, taking account of the level of nuisance for local residents and the rights and responsibilities of the Gypsies & Travellers
- To develop working partnerships with other local authorities, external groups and organisations and the Police involved with Gypsies & Travellers, to promote understanding and good working practices and relationships amongst communities

### 3 HOW THE POLICY WAS DEVELOPED

- 3.1 The Council recognised the need for a new and relevant policy for Gypsies & Travellers in response to the changing government guidance and legislation for local authorities regarding Gypsies & Travellers.
- 3.2 A long-term, strategic approach was necessary to meet the new responsibilities and for them to be successfully implemented through co-ordinated services over a wide mainstream of disciplines, including:
- housing and planning
  - health, welfare and education
  - legal and public protection
  - the Countryside service, which provides the co-ordination and implementation of the Gypsy & Traveller Policy and the traveller liaison service
- 3.3 In addition to the Council services there will be others from countywide services e.g. Thames Valley Consortium Traveller Education Service (TVCTES), partnerships with other local authorities, external groups and organisations, bringing essential skills and necessary experience to expedite implementation and success of the Policy.
- 3.4 A cross-service *Traveller Officer Core Group* was created to:
- develop a new and relevant policy for Gypsies & Travellers
  - coordinate the Council services on issues and practices involving Gypsies & Travellers.
- 3.5 The Traveller Officer Core Group will remain in place to see through policy implementation, development including monitoring of progress, to respond to future needs of the communities and changes in government guidance and legislation, and to update and advise Members of the Council and its Services where appropriate.
- 3.6 The project plan and timetable for the development of the Policy is included in Appendix 9.8.



### 3.7 Traveller Core Group Structure and Wider Groups Involved

|  |   |
|--|---|
| <p><b>Traveller Core Officer Group</b></p> <p>Development of the Policy with input from the Wider Council Service Group.</p> <ul style="list-style-type: none"> <li>• Bill Jennison - Lead Officer and Head of Countryside and Waste Management</li> <li>• Sarah Winter - Projects Officer</li> <li>• Paul Hendy - Countryside Manager</li> <li>• Jean Pimley - Traveller Liaison Officer</li> <li>• David Holling - Head of Legal &amp; Electoral Services</li> <li>• Dawn Reid – Planning Officer (Policy)</li> <li>• Mel Brain - Housing Strategy Officer</li> <li>• Helen Walters - Housing Officer (Housing Operations)</li> </ul>  | <p><b>Wider Council Service Group</b></p> <ul style="list-style-type: none"> <li>• Public Protection</li> <li>• Revenues and Benefits</li> <li>• Property Services</li> <li>• Travellers Education Service (Thames Valley Consortium)</li> <li>• Equalities Representative</li> <li>• Supported Housing Officer</li> <li>• Supporting People Manager</li> <li>• Adult Community Learning</li> <li>• Children’s Trust</li> <li>• Community Safety</li> </ul> |
| <p><b>Member Representatives</b></p> <ul style="list-style-type: none"> <li>• Councillor Geoff Findlay</li> <li>• Councillor Emma Webster</li> <li>• Councillor Royce Longton</li> </ul>   |   |
| <p><b>External Organisations and Interested Groups</b></p> <p>These groups and organisations will be part of the public consultation group.</p> <ul style="list-style-type: none"> <li>• Community Council for Berkshire</li> <li>• The Government’s Rural Advocate</li> <li>• The Countryside Agency</li> <li>• Association of Councils of the Thames Valley (ACTVaR)</li> <li>• Government Office of the South East (GOSE)</li> <li>• Local Government Association (LGA)</li> <li>• The Gypsy Council</li> <li>• The Gypsy Law Society</li> <li>• Housing Associations in West Berkshire</li> <li>• Hampshire County Council</li> <li>• Wiltshire County Council</li> <li>• Oxfordshire County Council</li> <li>• Basingstoke and Deane District</li> <li>• Test Valley District Council</li> <li>• Kennet District Council</li> <li>• Swindon District Council</li> <li>• Vale of the White Horse District</li> <li>• South Oxfordshire District Council</li> <li>• Reading Borough Council</li> <li>• Police</li> <li>• Primary Care Trust</li> <li>• Fire Authority</li> <li>• Pangbourne Parish Council</li> <li>• Thatcham Parish Council</li> <li>• Theale Parish Council</li> </ul> |   |

## **4 BACKGROUND TO GYPSIES & TRAVELLERS IN THE DISTRICT**

### **4.1 Gypsy & Traveller Authorised Sites**

- 4.1.1 There are two longstanding authorised Gypsy & Traveller sites in West Berkshire. One of these is Four House Corner at Burghfield, which has a long term lease and managed by the Council. This is a permanent site with 18 pitches and provides settled accommodation.
- 4.1.2 In 2006 the Council was successful in receiving grant aid from GOSE (the Government Office of the South East) for refurbishment work at the site.
- 4.1.3 The second site is Paices Hill at Aldermaston. This is a privately-owned permanent site, which provides settled accommodation with 15 pitches and includes transit site provision.
- 4.1.4 The Community Council for Berkshire runs a very successful adult and children's educational project involving the arts, painting, music and dance at the Paices Hill site. The project, originally started by the Council's Education Service, has been running for 5 years and still receives significant funding and support from the Service. The project also operates at Four Houses Corner with visits from the Community Learning Information Vehicle (CLIVE). It is hoped that this successful project will continue to develop and play a key part for these communities. The project provides the necessary support to this vulnerable group as stated in the Children & Young People's Directorate Plan and the Local Area Agreement (LAA).
- 4.1.5 There is currently no transit site or temporary stopping provision provided by the Council.

### **4.2 Mobile Traveller Groups in the District**

- 4.2.1 Information on the mobile travelling groups in the district is limited, but it is probable that they are mainly from the ethnic groups of English Gypsies and Irish Travellers. Both groups have a long history of living in Britain. The two communities are distinct, but share a history and cultural preference for a nomadic way of life. They have their own distinctive languages and social identities, but both have strong family bonds and a desire to live in extended family groupings.
- 4.2.2 The known mobile travelling groups are often on route and will move on from an encampment within a few days or in some instances stay for longer periods. It is probable, but there is no evidence, that very few of the travelling Gypsies have family in the area and hence the short stays of encampments.
- 4.2.3 New Travellers<sup>1</sup> are less frequent, but often seek to remain for longer periods.

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<sup>1</sup> Previously known as New Age Travellers

### 4.3 **Movements of Travellers in the District**

4.3.1 Recorded patterns of movement of travellers in the District tend to be mainly between April and the end of summer, with the peak months being April and May, but this is by no means definitive and can vary from year to year.

4.3.2 Information from the ACTVaR Gypsy and Traveller Accommodation Assessment research has helped provide more information on regional traveller movement in the Thames Valley, but equally West Berkshire will need to consider areas on its boundary with Wiltshire to the west and Hampshire to the south.

### 4.4 **Unauthorised Encampments**

4.4.1 Historically, the Newbury area has had experience of high profile unauthorised encampments. These were during the Greenham Common Peace Protests in the 1980s, the Newbury Bypass protests and the Festival of Light event in the 1990s, but these were the exception to the rule and except for the latter, did not involve Gypsies.

4.4.2 The rural nature of West Berkshire means that there are large areas of open land that are remote from the urban communities. Short stay encampments in these areas, be they on Council or private land, can go unnoticed and not be reported. Such areas are difficult to monitor and protect. Common land owned or managed by the Council is maintained by the Countryside Ranger Team, which monitors such areas and is, when necessary, involved with unauthorised encampments and can introduce appropriate protection measures.

4.4.3 The countryside fringe to urban areas in the District often has attraction for encampments with families, because of the close proximity to schools, amenities and health facilities.

4.4.4 Of more recent concern are the homeless itinerants, who are not gypsies, but often local people, who for whatever reason, illegally reside in a caravan or vehicle near to their original home. This can cause concern to the nearby residential or business communities and often removal is not successful as they soon return to the same area or an adjacent site.

4.4.5 The Council has for some time now, implemented a practical policy of sensitive management of unauthorised encampments that is consistent with Government good practice guidelines (DoE Circular 18/94, paragraph 2.2). This stresses the need for judgement in policy response according to the location and condition of the site, the nature of the travellers and concerns of any nearby residents and businesses.

4.4.6 Reported unauthorised encampments are logged with details of the time, location and occupants and are submitted annually as a requirement to the Department for Communities and Local Government (DCLG) for the purposes of maintaining national records. The collection of the data has been greatly assisted over the last year by the sharing of the services of a Traveller Liaison Officer with Wokingham District Council. Unfortunately, this arrangement has come to an end, but has demonstrated the true benefit of partnership working and new opportunities will

need to be developed. The recent joint working on the Gypsy and Traveller Accommodation Assessment research through the ACTVaR has been a good example and may create further opportunities to extend partnership arrangements.

- 4.4.7 The consequence of any removal process can be very time consuming and involve substantial cost in gathering evidence, the preparation and serving of legal documents, attendance at court and the subsequent clearing and disposal of any remaining material left on the site.
- 4.4.8 Compared to many other Thames Valley local authorities, the number of reported incidents and the size of unauthorised encampments are comparatively small. However, with national estimates of approximately 25% of Gypsy and Traveller caravans not having an authorised pitch, there will inevitably be more unauthorised encampments with the associated issue unless more pitches are provided. More importantly, increases in unauthorised developments, similar to the unauthorised encampment attempted at Pangbourne in 2004, may be anticipated.
- 4.4.9 Dependent upon the pressure brought about by the unauthorised developments, use of additional legal powers may be considered, including Temporary Stop Notices, to halt such developments progressing.
- 4.4.10 Procedures for assessing and removal of Unauthorised Encampments or Unauthorised Developments are included in Appendices:
- 9.4 Management of Unauthorised Encampments
  - 9.5 Procedure - Guidance of the Management of Unauthorised Encampments
  - 9.6 Protocol – Assessing Unauthorised Encampments: Decision on Taking Action
  - 9.7 Protocol – Unauthorised Encampment and Ensuring Compliance with Good Practice and the Law
- 4.4.11 The introduction of Transit Sites or Stopping Places for Gypsies & Travellers may help in controlling growth in the number of Unauthorised Encampments in the district. The Council will undertake an assessment of any need for such sites and it may be that as the supply of permanent authorised sites improves in the region it will be possible to gain a clearer picture of the need.
- 4.4.12 Transit sites are temporary stopping places with access to water and power. Stopping places include access to land, but only limited facilities.

## **5 ISSUES FOR LOCAL AUTHORITIES INFLUENCING POLICY**

### **5.1 Planning**

5.1.1 The planning system is concerned with ensuring the appropriate use of land, which is of relevance to Gypsy and Traveller.

5.1.2 The new Local Development Framework being developed by each planning authority sets out the policy framework within which planning applications will be considered. These frameworks are currently being developed and Local Plans are still in place prior to the establishment of the Local Development Framework. Gypsies & Travellers, and indeed any other body, need planning permission from their local planning authority to set up a site on land in the local area. The local planning authority must base its decision on granting planning permission on whether the application complies with policy in the Local Development Framework, unless material considerations indicate otherwise. Therefore, the local policy on Gypsy sites – which should be influenced by any accommodation needs assessment undertaken – will influence the applicant's chances of success.

5.1.3 Government guidance in the form of Circular 01/2006 – Planning for Gypsy & Traveller Caravan Sites - was published in February 2006. It requires Regional Spatial Strategies, such as the developing South East Plan, to take a strategic view of Gypsy and Traveller needs across the region in the light of local authority Gypsy and Traveller accommodation assessments.

### **5.2 Housing**

5.2.1 Gypsies & Travellers have the same right to assistance with housing as other members of the settled community. Those living in caravans with no legal place on which to park them may be statutorily homeless if they are vulnerable and in priority need. The principle differences arise for Gypsies & Travellers in the extent to which their different cultural needs and lifestyles are taken account of when determining whether they are intentionally homeless and entitled to assistance, whether they have a local connection with the authority in question, and in how their needs should be responded to.

5.2.2 The extent to which housing (rather than site provision) is regarded to be a suitable response to the accommodation needs of homeless Gypsies & Travellers is important here. Where a local authority is satisfied that sufficient degree of cultural aversion to conventional housing has been established, it is incumbent upon that authority to use its best endeavours to find suitable alternative accommodation. Furthermore government guidance states that site managers may be aware of matters of group and family compatibility, which must be taken into account when allocating pitches on authorised socially rented sites.

5.2.3 The guidelines<sup>2</sup> covering the interpretation of a local connection for homelessness purposes states that authorities should take account of the specific needs of

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<sup>2</sup> Guidelines for local authorities and referees agreed by the Association of Local Government, Convention of Scottish Authorities, Local Government Association, and the Welsh Local Government Association.

Gypsies & Travellers. For instance the need for six months residence in an area within the last 12 months should take account of forced moves (e.g. through removal) and recognise that close family connections will be much wider than those for the settled community.

5.2.4 There is some perception that Gypsies & Travellers are more likely to be removed from housing than other groups and that domestic violence is a common reason for homelessness within the communities. However, there is no research evidence to substantiate these claims.

### 5.3 **Education**

5.3.1 Research carried out by Ofsted during the late nineties and more recently in 2003<sup>3</sup>, noted poor levels of attendance and achievement amongst children from Gypsy and Traveller communities. A number of reasons have been identified for this as follows:

- The natural travelling patterns of some households
- Enforced mobility due to evictions from unauthorised encampments and developments
- Fears of bullying or dilution of the community's moral code and values which cause parents to remove their children from school
- A tradition of boys in particular entering the family business at an early age

5.3.2 Although Gypsy or Traveller children have the same rights to an education as every other child, it is difficult for them to exercise those rights without secure accommodation.

5.3.3 Section 509 of the Education Act 1996 requires local education authorities (LEAs) to make appropriate arrangements for transport to and from school if it is more than two miles walking distance away (for under eights).

5.3.4 The 1996 Ofsted research<sup>4</sup> also found that Travelling children are more prone to exclusion from school and to racist bullying. In 2001 Ofsted<sup>5</sup> found that there was a growing trend for Traveller families to educate their children at home, and that there was poor monitoring of the standard of education received in these circumstances in some areas.

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<sup>3</sup> 'Provision and support for Traveller pupils' Ofsted 2003

<sup>4</sup> 'The education of Travelling children' Ofsted 1996

<sup>5</sup> 'Managing support for the attainment of pupils from minority ethnic groups' Ofsted 2001

## 5.4 Health

- 5.4.1 A study of the health of Gypsies & Travellers in England completed in 2004<sup>6</sup> found that they have a poorer health status than other UK resident English speaking ethnic minorities and the economically disadvantaged white UK residents. When matched for age and sex, they also reported health problems more frequently.
- 5.4.2 The study concluded that living in a house was associated with long term illness, poorer health state and higher levels of anxiety. Those who rarely travel were found to have the poorest health. There was some evidence of an inverse relationship between health status and take up of health services. The study found an increased prevalence of anxiety, respiratory problems (including asthma and bronchitis and chest pain), together with miscarriages and neonatal deaths.
- 5.4.3 The researchers concluded that the scale of health inequalities between the Gypsy and Traveller communities and their peers from the settled community was large and could not be accounted for by age, education and smoking.
- 5.4.4 The impact of accommodation on health and the ability to take up health services was seen as crucial by those households that took part in the study. The study concluded that the health needs of Gypsies & Travellers are not being adequately met through current provision and plans, and suggested a need to work in partnership with local Gypsy and Traveller communities to develop specialist services.
- 5.4.5 As a group Gypsies & Travellers are recognised to be at greater risk of homelessness than the general population<sup>7</sup>, and less likely to be well linked into available services. They have therefore been recognised as a group that may need access to the types of support that can be funded from Supporting People.

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<sup>6</sup> G Parry et al 'The health status of Gypsies & Travellers in England' report by the University of Sheffield for the Department of Health, 2004

<sup>7</sup> The Gypsy and Traveller Law Handbook quotes a legal case (page 194) in which Government evidence was quoted of 18% homelessness amongst Gypsies & Travellers compared to just 1% for the settled community.

## **6 COUNCIL SERVICES & EXTERNAL ORGANISATIONS INVOLVED WITH GYPSY & TRAVELLERS**

### **6.1 Countryside Services**

- 6.1.1 This service manages large areas of the countryside with nature conservation value, including commons and recreation land with public access, across the district. It is a front line service that is very familiar and knowledgeable of land management and visitor issues and has gained a good working experience with Gypsy and Travellers.
- 6.1.2 The Head of Service is also the lead officer in coordinating Council services on Gypsy and Traveller issues, including its policy development and implementation. The Countryside team comprises a Manager and the services of a part-time Traveller Liaison Officer who works across relevant services. These include the County-wide traveller education service, welfare support, legal services and the Police, who also have responsibilities for travellers and with whom the Council has developed a shared joint protocol on the management of unauthorised encampments. In addition, support is provided, where necessary, from the Countryside Rangers who can assist with unauthorised encampments and protection of land. The service maintains records and information on encampments in the district and has developed a good working relationship with relevant external groups and organisations.
- 6.1.3 The service acts as the communication link within the Council to update and inform Members and the community of traveller issues.

### **6.2 Legal Services**

- 6.2.1 The Environment Team within Legal Services provides legal support in regard to unauthorised encampments and general advice in connection with the Human Rights Act and court processes. Instructions are provided by the Countryside Team when it becomes apparent that unlawful occupation of Council land has occurred. Instructions may vary depending on the type of occupation that has occurred, and the nature and number of occupants on a particular site. In certain instances Direction Orders may be prepared and served on site and, as a consequence, Magistrates Court proceedings may follow. Close communication between the various Council services is essential during these processes.
- 6.2.2 Legal Services also provides general advice relating to particular areas of law which impact upon the processes relating to Gypsies & Travellers

### **6.3 Housing**

- 6.3.1 The Housing Strategy, Enabling & Grants Team work on a sub-regional, as well as a local basis to address the needs of Gypsies & Travellers. Examples of this are the provision of housing grants to residents of Four Houses Corner to deal with disrepair and participation in the ACTVaR GTAA needs study. Work will continue at a sub-regional level to look at the best way in which to meet the needs identified within this study.



6.3.2 The team will work with other relevant Council services, including Housing Operations, Planning and Countryside & Waste Management, to facilitate the development of needs identified in the Gypsy & Traveller Accommodation Assessment for addition pitches, in accordance with existing Council policies. The team will work with Planning on the Local Development Framework and sites for Gypsies & Travellers, which will be considered as part of the housing allocations paper.

6.3.3 Housing Strategy will continue to assess, review and respond to housing issues in relation to Gypsies & Travellers.

## 6.4 **Planning**

6.4.1 The new planning system places emphasis on early consultation between Local Planning Authorities and the communities they serve in developing their Local Development Frameworks, with the aim to ensure that the documents properly reflect their needs and aspirations. West Berkshire Council's Statement of Community Involvement (adopted July 2006) sets out how the Council will involve the community in the preparation and revision of planning policy documents.

6.4.2 The Council considers that it is important that the needs of Gypsies & Travellers should be assessed beyond the level of the individual local authority reflecting the lifestyles of these groups. The Association of Councils of the Thames Valley Region have undertaken research into the levels of provision for Gypsies & Travellers in the Thames Valley. Future policy in West Berkshire will be informed by that research and will be addressed in the forthcoming Housing Site Allocations development plan document, which will form part of the Local Development Framework. This document will be developed in consultation with the Housing Service and will undergo extensive public consultation.

## 6.5 **Public Protection**

6.5.1 Public Protection will respond to complaints of noise, odour etc on unauthorised encampments under powers set out in the Environmental Protection Act 1990. They will also investigate public health and hygiene issues. The Service works closely with the Council's Traveller Liaison Officer in co-ordinating the work of the Council when responding to unauthorised encampments.

## 6.6 **Education**

6.6.1 The Traveller Education Service is funded by the Department for Education and Skills and the five Unitary Authorities of Bracknell Forest, Reading, West Berkshire, Windsor & Maidenhead, and Wokingham. This 'consortium' of local authorities helps to fund the Service.

6.6.2 The Service exists to support schools and the five Local Education Authorities in the consortium area to:

- ensure access to education for Gypsy & Traveller children
- promote regular attendance
- enhance educational achievement.

- 6.6.3 The work of the service is carried out by a Coordinator, alongside a Senior Advisory Teacher, 3.6FTR Advisory Teachers, a Traveller Education Welfare Officer and administrative support.
- 6.6.4 Support and advice are usually given in one or more of the following ways:
- admissions and all aspects of Traveller education
  - assessment of the needs of pupils, schools and families
  - funding for LSA support to settle in new children
  - support teaching from specialist teachers
  - Education Welfare Officer support on attendance and welfare issues
  - resources to reflect cultural diversity
  - curriculum development for inclusion, OFSTED requirements
  - training and awareness-raising sessions.
- 6.6.5 The Service works with other agencies to provide a coherent service for schools, the LEAs and Traveller children and families. The TLO provides information on encampments to the Traveller Education Service as soon as possible so that education provision can be progressed.
- 6.6.6 The Council's Adult & Community Learning team also provides significant financial support to the CCB's Traveller Education Project, which provides educational support to both adults and children.
- 6.7 **Supporting People**
- 6.7.1 In April 2003, local authorities (unitary and county councils) took responsibility for administering local *Supporting People* funding, which aims to provide housing-related support to those who need help to live independently and to avoid homelessness. The services funded from Supporting People include help to access secure housing, help to understand and comply with the obligations of a tenancy/licence, signposting to other services, help to claim benefits, and assistance to tackle anti-social behaviour or harassment.
- 6.7.2 The West Berkshire Supporting People team funds two tenancy support officers who both have a remit to provide support to Gypsies & Travellers in addition to providing support to homeless households in temporary accommodation
- 6.8 **Corporate Equality Group**
- 6.8.1 The Corporate Equality Group, which is made up of Lead Heads of Service across all 4 Directorates, ensures that equality issues are taken into account in all policy and service development. This Policy will need to link into this group to ensure that the needs of Gypsies & Travellers are considered across all relevant Council Services.

## 6.9 External Groups and Organisations

- 6.9.1 The Community Council for Berkshire runs an education project funded through the Adult & Community Learning Team for both adults and children. The project runs at Four Houses Corner (the local authority site) and operates out of a mobile vehicle. It also works with the community at the Paices Hill site from a cabin used as a community facility. The project provides for adult learning, family learning and support for both adults and children.
- 6.9.2 The Council and the Police work closely together and have established an effective working relationship for managing unauthorised encampments. This has included the joint guidance procedure on the management of unauthorised encampments in 9.5. The Council's Traveller Liaison Officer has regular contact with the Local Police Liaison Officer on traveller issues. The Police also provide information on the needs of families for health, education and welfare requirements.
- 6.9.3 A Health and Equalities Group has been established in West Berkshire involving the PCT, district nurses, Traveller Education Service, the Community Council for Berkshire and Children's Services within the Council to review the health needs of Gypsies & Travellers.

## 7 GYPSY & TRAVELLER ACCOMMODATION ASSESSMENTS

### 7.1 Gypsy and Traveller Accommodation Assessments

7.1.1 The Government has said that the key to a reduction in unauthorised encampments is to increase the supply of authorised sites. The Government is committed to increasing site provision, linked to firm, but fair use of enforcement powers against unauthorised sites and anti-social behaviour.

7.1.2 The new approach provides for:

- Local authorities to take the lead in assessing the accommodation needs of Gypsies & Travellers alongside those of their settled population
- The locally assessed needs of Gypsies & Travellers to be incorporated into the Regional Spatial Strategy
- Each local authority to play its part in meeting that need through the planning system by identifying appropriate sites in local plans

7.1.3 The new system will work as follows:

- The Housing Act 2004 requires local authorities to assess the need for Gypsy and Traveller accommodation in their areas when they assess the housing requirements of the rest of the population.
- Local authorities must then develop a strategy which addresses the need arising from the accommodation assessment, through public or private provision.
- The Regional Planning Body (South East England Regional Assembly), on the basis of local authority assessed need, will determine how many pitches should be provided across the region. It will then specify in the Regional Spatial Strategy (the South East Plan) how many pitches need to be provided in each local authority area, ensuring that collectively local authorities make provision in a way which is equitable and meets the assessed pattern of need.
- Local planning authorities will be obliged to identify sites in their Development Plan documents, in line with the requirement identified in the Regional Spatial Strategy. It will no longer be acceptable just to specify planning criteria for sites; local authorities will be expected to identify land.
- Where there is a clear need, if local planning authorities fail to identify sites in their Development Plan Documents, the Secretary of State has the power to direct them to do so.

7.1.4 In some areas where there is an urgent demand for authorised site provision, local authorities do not have to wait until the end of the planning process described above to provide more sites.

7.1.5 It is intended that the findings will feed into the Local Development Framework process and the regional spatial strategy process, which will inform the South East Plan Partial Review (Gypsies & Travellers) and the planning of site provision and services for Gypsies & Travellers.

## 7.2 **Working with other Local Authorities in the Thames Valley Region**

7.2.1 The requirement for local authorities to understand the needs of Gypsies & Travellers and to have accurate data on which to assess current and future requirements necessitated research. This was jointly achieved with the other 17 local authorities in Berkshire, Oxfordshire and Buckinghamshire under the auspices of ACTVaR. This provided an opportunity to consider regional and local information on needs. The aims of the research were to:

- Gain a better understanding of the regional and local pattern of movements and encampments
- Inform the current understanding of accommodation and support needs as assessed by the local housing authorities
- Inform the development of future housing and planning policy at a district level
- Identify and inform the possible opportunities for cross-authority working to address Gypsy and Traveller needs

7.2.2 The focus of the study was to identify accommodation needs at a local and regional level.

7.2.3 The outcomes of the research were completed in September 2006 and will assist the Council in assessing future accommodation need for travellers at a local level and in the context of the Thames Valley region. It will also form part of the findings that will feed into the Local Development Framework and the Regional Spatial Strategy processes, which will inform the South East Plan Review (Gypsies & Travellers) and the planning of site provision and services for Gypsies & Travellers.

7.2.4 The research information was gained from a questionnaire that had been developed and piloted with Gypsies & Travellers.

7.2.5 Outcomes of this research produced by ACTVaR are included in Appendix 9.3 and in the Gypsy & Traveller needs assessment for the Thames Valley Region produced by ACTVaR.

## **8 SUMMARY**

- 8.1 Guidance and legislation from government is clear, but resolution of the many specific issues involved, many of which are historic and across cultures, is complex and will require the full coordination of district services and partnerships to successfully deliver.
- 8.2 Section 2 of this Policy Document introduces the policies devised by West Berkshire to address these needs.

SECTION 2  
APPENDICES

POLICY

SUPPORTING INFORMATION

PROTOCOL

PROCEDURE

## 9 APPENDICES

### Policy Objectives

The following policies have been developed from the Council's key objectives, seen below, for Gypsies & Travellers.

The Council seeks to create an environment across the district in which the rights and responsibilities of residential communities and those of Gypsies & Travellers are respected. It will seek to co-ordinate the efforts of its services and those created through partnerships with external groups and organisations involved with travellers, to develop safe, strong and enduring communities.

- To recognise the rights and equality needs of Gypsies & Travellers together with those of the resident communities
- To balance the rights and needs of resident communities with those of Gypsies & Travellers
- To ensure that Gypsies & Travellers have equal access to Council Services
- To respond to unauthorised encampments in an efficient and effective way, taking account of the level of nuisance for local residents and the rights and responsibilities of the Gypsies & Travellers
- To develop working partnerships with other local authorities, external groups and organisations and the Police involved with travellers, to promote understanding and good working practices and relationships amongst communities



## 9.1 **Policy - Provision of Authorised Pitches for Gypsies & Travellers**

*Without future provision for more authorised pitches, as indicated in the Gypsy & Traveller Accommodation Assessment led by ACTVaR with the other Thames Valley local authorities, there will inevitably be more unauthorised sites across the region and tension within the communities. There is therefore a clear need to seek to address this issue across local authority boundaries.*

### **POLICY BACKGROUND**

### **PARAGRAPH REFERENCE**

The Council will:

- Continue to provide a site for permanent pitches at Four Housed Corner, Burghfield and to seek external funding to continue with site improvements. 4.1.2
- Offer support to the privately owned site at Paices Hill which provides permanent and transit pitches. 6.4.2
- Actively support the community projects undertaken at both Four Houses Corner and Paices Hill undertaken by the Community Council for Berkshire (CCB).
- Address the need for additional pitches identified in the ACTVaR Gypsy & Traveller Accommodation Assessment. This need will be addressed in the Council's Housing Site Allocations Development Plan document. 4.4  
6.3  
6.4  
Planning will be expected to identify sites in their Planning Development Documents, in line with the Regional Spatial Strategy. It is intended that this will feed into the Local Development Framework. This will involve the close working of the Housing and Planning services. 7.1.1  
9.3
- Seek partnership working arrangements on Gypsy & Traveller issues with other willing local authorities in the Thames Valley Region and also with those to the west and the south of West Berkshire's boundary. 4.3.2
- Undertake assessments as to the potential need for Transit Sites and acceptable Stopping Places, if they can be shown to assist in reducing unauthorised encampments. 4.1.5  
4.4.9
- Undertake consultations with communities and other involved groups or organisations when considering future site provision. 7.2
- Encourage Gypsies or Travellers, who wish to seek planning permission for a site, to follow the same pre-application discussion process with Planning as other developers. Further guidance on this is provided in Annex E of Circular 01/2006 – Planning for Gypsy & Traveller Caravan 5.1.3

Sites.

- Continue to monitor and log reported incidents of unauthorised encampments across the district to build long term information of needs and trends, and deal with such incidents as described in 9.5.

4.4.6

## 9.2 **Policy - Access to Services**

*Work with Gypsy & Traveller communities crosses the majority of Council services and those of external groups and organisations. A co-ordination of efforts is required to ensure the principle of equal access is achieved for the Council to achieve It's duty and responsibilities to the travelling community.*

### **POLICY BACKGROUND**

### **PARAGRAPH REFERENCE**

- The Council supports, through its Equality Policy, equal access to services and the principle within the Housing Act that accommodation needs of Gypsies & Travellers will be considered with those of the settled community. Work has already been achieved through completion of the GTAA research with ACTVaR and the other Thames Valley local authorities. Partnerships will be sought with other local authorities to address the shortage of pitches, balanced with the need to strengthen enforcement of unauthorised encampments or developments, which give rise to problems. 2.8  
4.4  
5.1  
5.2  
5.3  
5.4  
6.1.2  
6.3  
6.7  
9.3
- The Council will actively work with external groups and organisations involved with Gypsies & Travellers to promote cross – organisation working to create awareness of available services. 6.8
- The Council will monitor and review policy performance in this document and respond to changing needs, government guidance and legislation. 3.5
- The Council will work jointly with the Community Council for Berkshire (CCB) and other external groups, to achieve genuine dialogue with the Gypsy & Traveller community to facilitate access to services and to assist in delivering of this Policy document. 6.8

### 9.3 Supporting Information – ACTVaR Gypsy & Traveller Accommodation Assessment

The table below, taken from ACTVaR's Gypsy & Traveller Accommodation Needs Assessment for the Thames Valley Region, shows an estimated summary of need for West Berkshire<sup>8</sup>. This has been built around assumptions developed at a regional level and applied to local core data.

To aid the interpretation of the results the researchers have colour-coded the table using a traffic light system. Those assessments shown in green are regarded by the researchers as being fairly reliable. Those in amber are largely reliable, but may depend upon actions being taken by the local authority (for instance bringing unused pitches back into use etc) or are founded upon assumptions that expressed needs or preferences will result in actions by individual households. Those shown in red should be interpreted with some caution as they are based on limited evidence.

| <b>Current residential supply</b>   |           |   |
|---|-----------|---|
| Current supply of occupied socially rented residential sites pitches in local authority ownership                         | 15        | Taken from the site map   |
| Current supply of occupied authorised privately owned site pitches in local authority area                                | 15        | Taken from the site map   |
| <b>Total households on authorised sites</b>   | <b>30</b> |   |
| Number of authorised pitches not available for letting (awaiting refurbishment)   | 3         | Taken from information on the site map  |
| Number of existing pitches expected to become vacant and lettable through normal annual turnover (LA and privately owned) | 2         | Void rate of 12% across social rented and private sites, reduced to 8% to take account of voids created by a move within the region |
| Number of households in site accommodation expressing a desire to live in housing   | 4         | Number of people on authorised sites who would take up housing if offered – 12% based on results of survey.                         |
| New local authority pitches already planned   | 0         |   |
| Existing applications for private site development/extension  | 0         |   |

<sup>8</sup> Gypsy & Traveller Accommodation Needs Assessment for the Thames Valley Region, ACTVaR, September 2006

|   |           |  |
|---|-----------|--|
| <i>Additional demand for households:</i>  |           |  |
| On unauthorised encampments   | 1         | Assuming 1.6 caravans per household and adjusted to take account of the proportion wishing to move to site accommodation in the region   |
| On unauthorised developments for which planning permission is not expected              | 0         | Total number of people on unauthorised development (none of which are expected to get planning permission) based on site map   |
| Concealed households in the region currently in need of accommodation (backlog of need) | 7         | Based on 12.5% concealed households requiring site accommodation   |
| In housing but with a need for site accommodation                                       | 6         | Assumes those in housing represent 40% of total population and that 30% would take up a place on a site if offered.  |
| <b>Estimated current backlog of need</b>  | <b>14</b> |  |
| Additional household formation 2006 – 2011  | 9         | Number of new households likely to form in next five years who will wish to take up site accommodation   |
| <b>Estimated need for additional pitches 2006/11</b>                                    | <b>22</b> |  |
| Pitches available from current and planned supply over 2006-2011                        | 19        | Assumes: <ul style="list-style-type: none"> <li>• 12 vacancies arising over a five year period due to normal turnover</li> <li>• 4 additional vacancies created through those on authorised sites taking up housing</li> <li>• 0 planned pitches come into use</li> <li>• 3 pitches brought back into use</li> </ul> |
| <b>Indicative requirement for additional pitches 2006-2011</b>                          | <b>4</b>  |  |

Please note that the figures in this table have been rounded up or down as appropriate. Calculations have used pre rounded figures which in some cases may affect totals.

This assessment relates to the need for additional pitches arising from the assumed number of households in the local authority area. It may be appropriate in some cases for some or all of this need to be met at a county or regional level rather than at a district level.

## 9.4 **Policy - Management of Unauthorised Encampments**

*The key to a reduction in the number of unauthorised encampments is to increase the availability of authorised pitches. This needs to be linked to firm but fair use of enforcement powers against problem unauthorised encampments.*

### **POLICY BACKGROUND**

### **PARAGRAPH REFERENCE**

- The Council accepts the principles included in the Government's revised Good Practice Guide on Managing Unauthorised Encampments, February 2004. 2.4
- The Council will continue to implement a practical policy of sensitive management of unauthorised encampments consistent with Government Good Practice Guidelines. Judgements will be applied taking into account the particular location, condition of the site, the nature of the gypsies or travellers, the concerns of nearby residents and businesses and the written assessment made by the Council's Traveller Liaison Officer. 4.4.5
- The Council will further develop its working relationship with the Police who also have responsibility for unauthorised encampments, to agree protocols and procedures to ensure a consistent and balanced approach is taken when responding to unauthorised encampments. This is detailed in the current joint protocol, Guidance on the Management of Unauthorised Encampments. 9.5
- The Portfolio Council Member with responsibility for Gypsies & Travellers and Ward Members will be informed of incidents of unauthorised encampments. 9.5
- The Council will maintain records of all reported unauthorised encampments for future monitoring including the written assessments taken at the initial site visit regarding any health, welfare or other service needs of those involved. 4.4.6
- The Council may use additional powers in some circumstances, including the use of Temporary Stop Notices on incidents of unauthorised developments. 4.4.9  
4.4.11  
4.4.12
- The Council will provide advice to private landowners, Gypsies & Travellers, but will not take legal action on behalf of private landowners. Only in exceptional cases where this is judged to be in the public interest will this be considered and reimbursement of the Council's expenses will be required. This will be at the discretion of the Chief Executive and the political leaders. 9.5

## 9.5 Procedure - Guidance on the Management of Unauthorised Encampments

### Fact Sheet

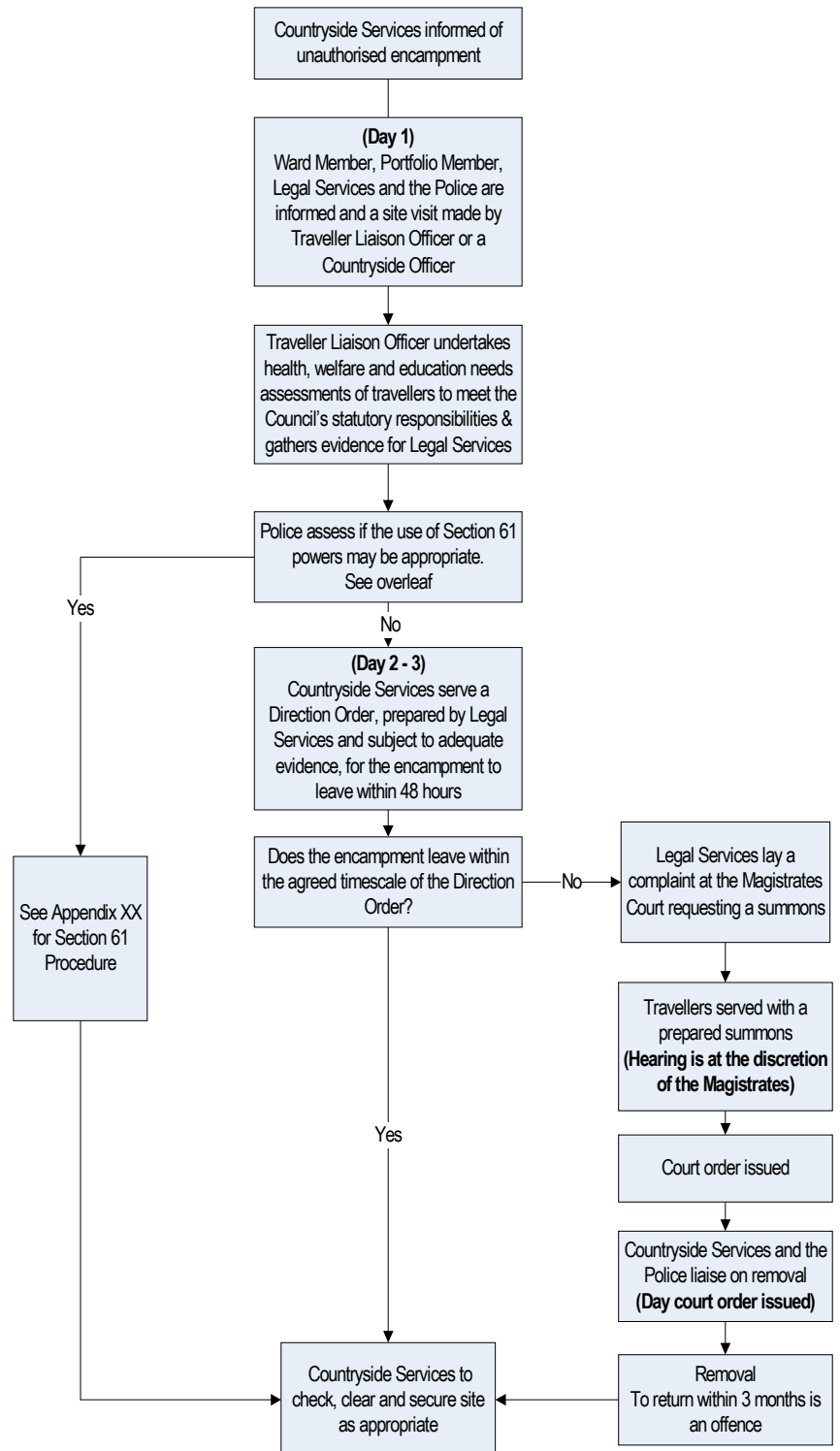
This fact sheet has been jointly produced by the Council in partnership with the Police. Both the Council and the Police have specific responsibilities and powers for managing unauthorised encampments. The powers described here are the ones most commonly used.

The coordination of responsibilities and cross service working on Gypsies & Travellers in the Council is with the Head of Countryside & Waste Management, Bill Jennison and unauthorised encampments with the Countryside Manager, Paul Hendry and the Traveller Liaison Officer, Jean Pimley.

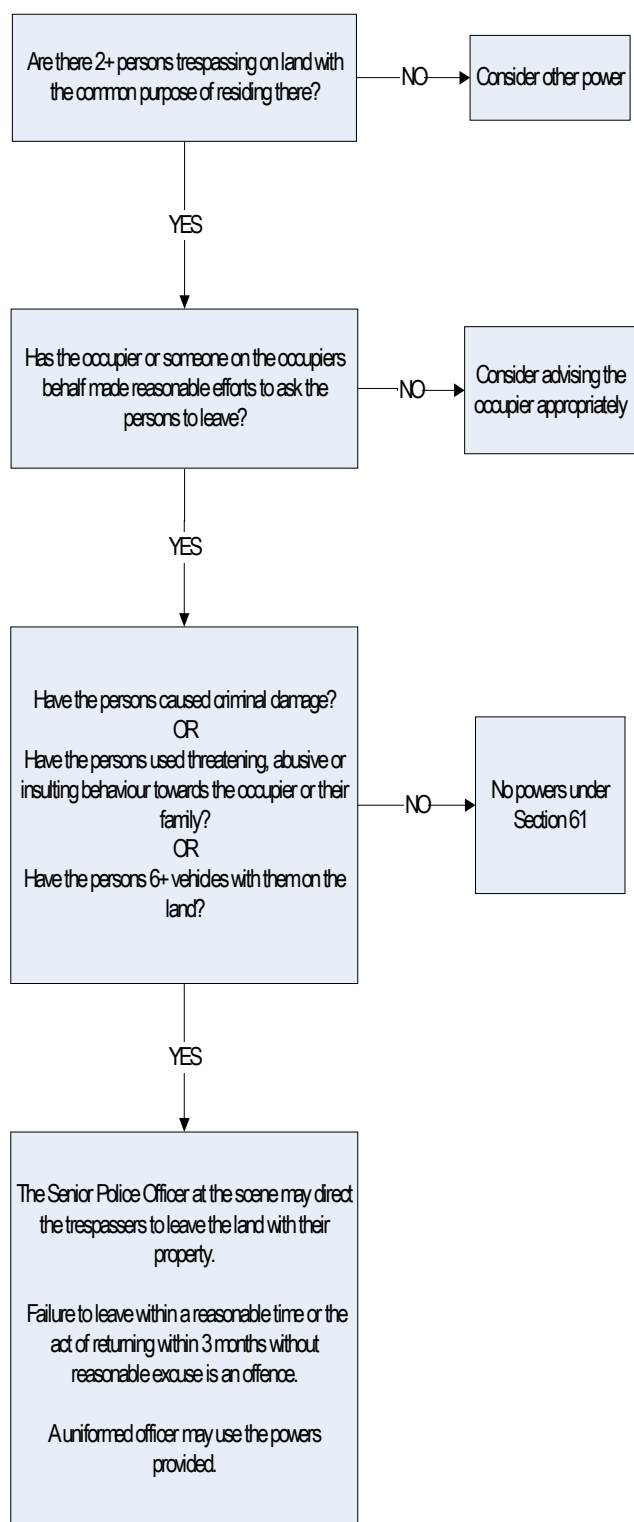
**Figure 1** - The Council's most commonly used power. This procedure provides an indicative framework followed by Countryside Services, but the illustrative timescales given are subject to the circumstance of each encampment, which can and do vary. These are dependant on when the encampment occurs i.e. unsocialable hours, the nature of their location and legal and court processes.

**Figure 2** - A discretionary power with the Police, which may apply in some circumstances, is shown on the following page.

**Figure 1: Unauthorised Encampments on Council Owned Land**



**Figure 2: Police Procedure – Powers under Section 61 of the Criminal Justice and Public Order Act 1994\***



\* This is a discretionary power and is subject to local policy and approval of an Operations Senior Officer.

## Useful Background Information

### Gypsies & Travellers

Gypsies & Travellers are protected from discrimination by the Race Relations Act 1976 and the Human Rights Act 1998, together with all ethnic groups who have a particular culture, language or values. The Council's procedure for managing unauthorised encampments is constructed to meet the statutory responsibilities of the Council towards Gypsies & Travellers.

### Can the Council remove Gypsies or Travellers from their land immediately?

No, the Council has statutory responsibilities towards Gypsies & Travellers as with the settled community and is required to:

- show that the gypsies or travellers are on the land without consent,
- make enquiries regarding the general health and welfare of individuals on the site together with children's educational needs,
- ensure the Human Rights Act 1998 has been fully complied with, and
- follow the correct procedure to successfully obtain the necessary authority from the Courts to remove the gypsies or travellers (if necessary).

### What is the process for managing unauthorised encampments on private land?

The Council does not have a duty to manage unauthorised encampments on private land, but will offer advice to landowners and members of the general public if requested. The landowner can:

- talk to them to see if they are prepared to leave on an agreed date, or
- take proceedings in the County Court under the Civil Procedures Rules 1998 to obtain a Court Order for their removal.

### Useful Contact Information

West Berkshire Council Streetcare Service: **01635 519080**

Countryside & Waste Management Traveller Liaison Service: **01635 503269**

West Berkshire Council Out of Hours Service for the contact officer: **01635 42161**

Police (Basic Command Unit): **01189 536149**



## 9.6 ***Protocol - Assessing Unauthorised Encampments: Decision on Taking Action***

All references in this document to Gypsies & Travellers should be taken as including any other persons who have a nomadic lifestyle for all or part of the year.

This document is intended to provide a policy framework within which to consider how the Council should react to unauthorised Gypsy & Traveller encampments and in particular whether, and if so when, the Council should bring possession proceedings to recover the land on which such encampments are placed. It is not a substitute for individual consideration of each case and any special circumstances which may be present.

Subject to any unusual or special circumstances, formal repossession procedures through the courts will normally be instituted against unauthorised encampments of Gypsies or Travellers occupying land in the area of the Council in the circumstances outlined below, that is to say where the encampment, in the opinion of the Council:

- Creates a hazard to road safety or otherwise creates a health or safety hazard; or
- Creates an intolerable nuisance to the general public by reason of its size, location, nature or duration; or
- Creates an intolerable impact on the enjoyment, use or habitation of adjoining or nearby property or interferes with the effective operation or management of that property; or
- causes is likely to cause damage to the Council's land or property or prejudice to its employees; or
- prejudices or is likely to prejudice the use of land for its intended purpose or by legitimate tenants or occupants; or
- is too large for its location or is causing unacceptable impact on its environment; or
- would for some other reason be detrimental to the interests of the public if allowed to remain for an extended period.

In considering the matters set out in the bullet points above and any other relevant matters peculiar to an individual case, consideration shall be given to the various statutory duties owed by the Council, and powers exercisable by the Council, both in relation to land in its ownership or under its control. Any or all of the following matters may potentially arise and will be taken into account by the Council when determining whether and if so when, to issue possession proceedings:-

- The health, welfare, housing and education requirements of members of the encampment and any responsibilities which the Council may have;

- The extent of accommodation provided by the Council;
- Any responsibilities to the public by virtue of legislation, e.g.: the Highways Act 1980, the Open Spaces Act, 1906, the Wildlife & Countryside Act 1981, and the Town and Country Planning Act 1990.

Every effort will be made to avoid moving gypsies unnecessarily from place to place particularly where this would create unwelcome disturbances to family life. In this connection particular regard will be paid to the schooling and welfare of children and the well being of the aged and infirm.

Action will normally be taken by the Council under the Criminal Justice & Public Order Act 1994.

Action will normally only be taken in respect of land owned by the Council, although in exceptional circumstances the Council will consider taking action in respect of privately owned land, where the Council considers this to be in the public interest. The Chief Executive will, in conjunction with the Group Leaders, decide whether such action is in the public interest.

Where action is taken in respect of privately owned land, it will be taken subject to any appropriate financial contribution from the land owners.

Appropriate enquiries will be made by the Council (through its Gypsies & Travellers Liaison Officer) before a decision is made whether to authorise repossession action. Should a decision be made to authorise repossession action, a reasonable period of time will be given within which the land must be vacated; the length of time considered to be a reasonable period will depend on the individual circumstances of each case.

The Gypsies & Travellers Liaison Officer will monitor the site and continue to liaise with the occupants to ensure the Council's statutory duties are complied with.

## **9.7 Protocol - Unauthorised Encampments and Ensuring Compliance with Good Practice and the Law**

### **The Legal Position**

The law relating to illegal encampments is not located in one piece of legislation, nor is it solely intended to deal only with the specific problems involved. In general terms there are three principal statutory regimes available to deal with illegal encampments and an outline of each procedure is set out below. In addition to these three procedures there are also powers under planning and public health legislation to take action against landowners who allow illegal encampments on their land, but it has to be said that these powers are not often used because most landowners do not willingly permit Gypsies or Travellers onto their land, and the procedures are extremely lengthy so do not provide a quick enough remedy.

Before the local authority takes any decision to institute legal proceedings, it must conduct a proper assessment of the unlawful encampment. A failure to do so could leave the local authority vulnerable to a challenge by way of a judicial review.

A singular feature of all the legal processes available to the Council or any landowner, is that no procedure provides for an immediate eviction of illegally encamped travellers. As has already been mentioned, a regular and understandable feature of all complaints received by the Council is that it does not act immediately to evict travellers. The reality is that it cannot do so. It must abide by all legal requirements if it is to be successful and for this reason the timescales and steps involved in each procedure are set out here.

The legislative regimes available to the Council are:

#### **High Court/County Court Rules Order 24, Rules of the Supreme Court Order 113 - Summary Proceedings for the recovery of land.**

These proceedings are available to the Council to enable it to repossess land which it owns.

Except in urgent cases, any hearing in the case of residential premises must be not less than five days after the application for repossession has been served on the travellers, or in the case of other land, not less than two days after the application for repossession has been served.

A successful application will result in the Court granting an Order for possession.

The Court may also issue a warrant of possession to enforce an order for possession.

#### **Magistrates' Court Sections 77-80 Criminal Justice and Public Order Act 1994.**

This procedure is the one most frequently used.

Section 77 allows a local authority to give a “direction” to persons residing in a vehicle or vehicles within an authority’s area.

- on any land forming part of a highway
- on any other unoccupied land
- on any occupied land without the consent of the occupier.

The direction is that those persons and any others with them are to leave the land and remove the vehicle or vehicles and any other property they have with them on the land.

A failure to comply with a direction is a criminal offence.

Section 78 allows the local authority to institute civil proceedings in the Magistrates’ Court, where persons and vehicles in which they are residing are present on land in contravention of a direction given under Section 77.

The Court may make an order requiring the removal of any vehicle or other property which is so present on the land and any person residing in it.

The Court may also authorise the local authority to take such steps as are reasonably necessary to ensure that the order is complied with and may authorise the authority, by its officers and servants:

- to enter on the land specified in the order; and
- to take in relation to any vehicle or property to be removed in pursuance of the order, such steps for securing entry and rendering it suitable for removal as may be so specified

## **Byelaws**

Where applicable these prohibit unauthorised camping on common land. Offenders may be prosecuted.

## **Guidance to Local Authorities**

Department of the Environment Circular 18/94; Gypsy Sites Policy and Unauthorised Camping constitutes relevant guidance on the use of Sections 77-79 of the Criminal Justice and Public Order Act 1994. The Good Practice Guide to managing unauthorised encampments is also excellent guidance here.

More recent guidance, commissioned by the Government by way of review of this Circular and in the light of case law (especially R v Lincolnshire County Council, ex parte Atkinson, R v Wealden District Council, ex parte Wales; ex parte Stratford 1996 (“the Wealden Case”) is contained in the joint Department of the Environment and Home Office Managing Unauthorised Camping: A Good Practice Guide issued on 29 October 1998.

Three of the Guides ‘Key Messages’ are:-

1. Local Authorities should have an overall strategy towards Gypsy and Traveller issues, including needs assessment, site provision and service provision - as well as eviction policies, which should be developed in consultation with the Police.
2. Local authorities and the Police should have a written statement of their policies towards unauthorised encampment. This should be made available to Gypsies & Travellers.
3. When evicting unauthorised campers local authorities should, where appropriate, follow a route which requires a Court Order.

It should be noted that there may be a conflict in certain circumstances between the interests of local residents and the needs of Gypsies or Travellers. In such circumstances it will be necessary for a decision to be made as to whether Court action is appropriate. This matter is delegated to officers following consultation with ward members and the appropriate Portfolio Member.

9.8 **Supporting Information - Gypsy & Traveller Policy Project Plan**

| PROJECT DETAILS  | Feb-06                                 | Mar-06 | Apr-06 | May-06 | Jun-06 | Jul-06 | Aug-06                                 | Sep-06 | Oct-06 | Nov-06                                 | Dec-06                                 | Jan-07                                 | Feb-07                                 | Mar-07 | Apr-07 | May-07 | Jun-07                       |  |
|--|--|--------|--------|--------|--------|--------|--|--------|--------|--|--|--|--|--------|--------|--------|------------------------------|--|
| Traveller Officer Core Group to produce a draft policy document.   | [Yellow bar spanning Feb-06 to Nov-06] |        |        |        |        |        |  |        |        |  |  |  |  |        |        |        |                              |  |
| Consideration and inclusion of the findings of ACTVaR's Gypsy & Travellers accommodation needs assessment across the Thames Valley in West Berkshire's draft policy. |  |        |        |        |        |        | [Yellow bar spanning Jul-06 to Sep-06] |        |        |  |  |  |  |        |        |        |                              |  |
| Wider Group Consultation   |  |        |        |        |        |        |  |        |        | [Yellow bar spanning Nov-06 to Dec-06] |  |  |  |        |        |        |                              |  |
| Draft policy to be considered by Portfolio Member as an Individual Decision  |  |        |        |        |        |        |  |        |        |  | [Yellow bar spanning Dec-06 to Jan-07] |  |  |        |        |        |                              |  |
| Public Consultation  |  |        |        |        |        |        |  |        |        |  |  | [Yellow bar spanning Jan-07 to Feb-07] |  |        |        |        |                              |  |
| Evaluation of Public Consultation and preparation of final policy.   |  |        |        |        |        |        |  |        |        |  |  |  | [Yellow bar spanning Mar-07 to May-07] |        |        |        |                              |  |
| Report to the Executive for adoption of the new Policy   |  |        |        |        |        |        |  |        |        |  |  |  |  |        |        |        | [Yellow bar spanning Jun-07] |  |

## 9.9 **Supporting Information - Relevant Publication, Guidance Reports & Policies**

### **Government Legislation Guidance & Circulars**

|   |           |   |
|---|-----------|---|
| Local Authorities and Gypsies & Travellers – Guide to Responsibilities and Powers                             | 2006      | Gypsy & Traveller Unit, ODPM                            |
| Gypsy & Traveller Accommodation Assessments – Draft Practice Guidance   | 2006      | Gypsy & Traveller Unit, ODPM                            |
| Guide to Effective Use of Enforcement Powers – Part 1 Unauthorised Encampments                                | 2006      | Gypsy & Traveller Unit, ODPM                            |
| Definition of the term ‘Gypsies & Travellers’ for the Purpose of the Housing Act 2004 – Consultation Document | 2006      | ODPM  |
| Planning for Gypsy & Traveller Caravan Sites  | 2006      | ODPM  |
| Gypsy & Traveller Sites Grant Guidance 2006-2008 + Annex A (Application for & Guidance Notes B, C & D)        | July 2006 | DCLG<br>(Department for Communities & Local Government) |

### **Local Government Briefings & Reports**

|   |                              |               |
|---|------------------------------|---------------|
| Report of the LGA Gypsy & Traveller Task Group  | June 2006                    | LGA           |
| Briefing - More Traveller Tales<br>Gypsy & Traveller Accommodation Needs<br>Assessment for the Thames Valley Region | March 2006<br>September 2006 | LGA<br>ACTVaR |

### **External Organisations Reports**

- Common Ground, Equality, good race relations and sites for Gypsies & Irish Travellers, Report of a CRE inquiry in England and Wales, Commission for Racial Equality

- Reading Council for Racial Equality, West Berkshire and Reading Change Up, Sakoma

## **West Berkshire Related Policies**

- Equalities Policy
- Supporting People Policy